

### **Remarks**

Applicants previously canceled Claims 5 and 53-86. Claims 1-4, 6-52, and 87-96 are pending. Applicants have withdrawn Claims 2-4, 7, 10, 27-31, 36, 39, 95, and 96 herein as being drawn to non-elected inventions or species, and Applicants reserve the right to prosecute the subject matter of such claims in one or more continuation applications if necessary.

Responsive to the Restriction Requirement mailed November 19, 2007, Applicants provisionally elect with traverse Group I, which encompasses Claims 9 (in part), 38 (in part), 88 (in part), along with linking Claims 1-4, 6-8, 11-37, 40-52, 87, and 89-94, drawn to compositions comprising nanoparticle compositions wherein the intracellular delivery ligand is HIV-TAT, and methods for production thereof. The restriction requirement is respectfully traversed on the basis that it was not timely made. A restriction requirement "will normally be made before any office action on the merits; however, it may be made at any time before final action." 37 C.F.R. § 1.143(a). Here, the Patent Office made a first restriction requirement on October 6, 2005, which Applicants responded to with traverse on November 7, 2005. The Patent Office withdrew the restriction requirement with respect to certain of the groups, and the application was then examined. A Final Office Action was mailed on August 6, 2007. Therefore, a restriction requirement made after August 6, 2007 is not timely, according to 37 C.F.R. § 1.143(a).

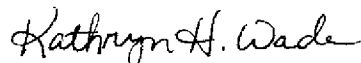
Should the restriction requirement be maintained, however, Applicants note that upon allowance of the linking claims, Applicants are entitled to rejoinder and examination of the claims directed to the non-elected inventions that require all the limitations of the allowable linking claims. MPEP § 818.03(d).

Applicants further provisionally elect with traverse the species of antibodies/antibody fragments as the targeting probes and second delivery ligands. The requirement for election of a single species of targeting probe and second delivery ligand is traversed on the basis that requirement was not timely made according to 37 C.F.R. § 1.143(a). Should the requirement for the election of species be maintained, however, Applicants note that upon the allowance of a generic claim, Applicants are entitled to consideration of the claims as they are directed to the non-elected species which are written in dependent form or otherwise include the limitations of the allowed generic claim. 37 C.F.R. § 1.141.

For at least the foregoing reasons, Applicants respectfully elect with traverse Group I (Claims 9 (in part), 38 (in part), 88 (in part), and linking Claims 1-4, 6-8, 11-37, 40-52, 87, and 89-94), and the species of antibodies/antibody fragments as the targeting probe and second delivery ligand. The foregoing is submitted as a full and complete response to the Restriction Requirement mailed November 29, 2007. If there are any issues which can be resolved by telephone conference, the Examiner is invited to call the undersigned attorney at (404)853-8000.

No fees are believed to be due; however, the Commissioner is hereby authorized to charge any additional fees due or credit any overpayment to Deposit Account No. 19-5029.

Respectfully submitted,



By: Kathryn H. Wade, Ph.D.

Reg. No. 54,682

Attorney for Applicant

SUTHERLAND ASBILL & BRENNAN LLP

999 Peachtree Street, NE

Atlanta, Georgia 30309-3996

(404) 853-8000

SAB Docket: 17625-0058